

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hiroteru TSUCHIYA
Title: IMAGE TRANSMISSION DEVICE AND INFORMING
METHOD THEREOF
Appl. No.: 10/077,891
Filing Date: 2/20/2002
Examiner: Stephen M. Brinich
Art Unit: 2625
Confirmation No. 3110

**RENEWED PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE HOLDING OF
ABANDONMENT, OR, IN THE ALTERNATIVE, REQUEST TO REVIVE
APPLICATION UNDER UNINTENTIONAL ABANDONMENT**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully requests reconsideration of the decision mailed March 3, 2008, dismissing Applicant's petition to withdraw a holding of abandonment of the present application. Applicant believes that no fee is due in connection with this Renewed Petition to Withdraw Holding of Abandonment. However, the Commissioner is hereby authorized to charge any fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741.

As demonstrated below, the original holding of abandonment is incorrect. No further corrected formal drawings have ever been due in the case. The record does not contain a single stated error relative to the drawings. Moreover, the Patent Office Examiner sent a corrected Notice of Allowance replacement page to correct an erroneous indication in the original Notice of Allowance stating that corrected drawings were due.

Should the request for reconsideration be denied, then and only then, in the alternative, Applicant requests that the case be revived under unintentional abandonment.

I. BACKGROUND FACTS

The present application was filed on February 20, 2002, including formal drawings (Exhibit No. 1 contains the formal drawings as scanned by the Patent Office). The Patent Office mailed a first Office Action on December 14, 2005. The first action did not contain any objections to the drawings. During the subsequent prosecution, including a first Reply filed March 9, 2006, a second Office Action on May, 30, 2006, and a Second Reply filed August 25, 2006, the Patent Office made no objections to the formal drawings, nor did the Applicant make any changes to the drawings.

On November 17, 2006, the Patent Office Examiner mailed a Notice of Allowance (Exhibit No. 2). The Notice of Allowance included a Notice of Allowability form PTOL-37. This form erroneously indicated that corrected drawings were due, and referred to a Notice of Draftperson's Patent Drawing Review (PTO-948). No Draftperson's review was attached, none is listed under "Attachment(s)" at the bottom of form PTOL-37, and none has ever been supplied.

The Notice of Allowability form PTOL-37 was not itself signed. Rather, only the last page of the overall Notice of Allowance was signed by the Examiner. The Notice of Allowance further contained the following language under the Conclusions section:

2. Any inquiry concerning the contents of this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430.

....

Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 571-273-8300 (as of July 15, 2005). Notice of Allowance, pp. 2-3.

Recognizing that the Notice of Allowability contained an erroneous request for corrected drawings, and following the language of the Notice of Allowance, Applicant's representative contacted Examiner Brinich on December 6, 2006. Examiner Brinich entirely agreed that the request for corrected drawings was erroneous.

Examiner Brinich provided an updated replacement page of the Notice of Allowability on December 6, 2006. Exhibit No. 3 contains the replacement page, together with the

faxcover from the Tech Center. The faxcover contains an official seal of the U.S. Patent & Trademark Office. The faxcover identifies the application number, the Examiner name and contact information, and the date and time of transmission. The Official Fax Number identified on the faxcover is the same as that on page 3 of the Notice of Allowance. As seen on the replacement page of the Notice of Allowability, no corrected drawings are due.

Applicant timely paid the issue fee on February 15, 2007. Exhibit No. 4.

The Patent Office mailed a Notice of Abandonment on March 19, 2007. The only stated reason for the holding of abandonment is that no corrected drawings were filed.

II. THE HOLDING OF ABANDONMENT IS ERRONEOUS BECAUSE NO CORRECTED DRAWINGS WERE DUE

The only basis for the holding of abandonment is alleged failure to file corrected drawings. However, the entire Patent Office record makes very clear that no further formal drawings are due. The application as filed contained formal and complete drawings. *See Exhibit No. 1, and no error* has ever been identified in the drawings. At no time during prosecution leading to the Notice of Allowance was any objection or change made to any application drawing.

The Notice of Allowability erroneously contained a checked box that corrected drawings were due, referencing a non-existent Notice of Draftperson's Patent Drawing Review. *See Exhibit No. 2.* The Patent Examiner confirmed in writing that no drawing corrections were due. *See Exhibit No. 3.* The Notice of Allowability contained a simple typographical error, which the PTO Examiner entirely acknowledged and corrected.

The application file all along contained the correct formal drawings. To the extent that the Notice of Allowance stated any requirement for correct formal drawings, the application file already contains them and the requirement is met.

This case is not a situation where some correction to the drawings was actually due, and Applicants tried to traverse it without filing formal drawings. No changes to the drawings have ever needed to be made in this case. The application file has the correct formal drawings.

Nothing in the PTO regulations or Manual of Patent Examining Procedure directs abandoning an application based on an erroneous indication in a Notice of Allowance that

corrected drawings are due when the case in fact contains the correct formal drawings. The petitions dismissal does not point to any statute, regulation or MPEP section that states to abandon a case based on an erroneous request for corrected drawings.

The Applicant met all the PTO regulations for formal drawings. The basis for abandoning the case, that corrected drawings are due, cannot hold when the case contains the correct formal drawings.

III. ANY UNCERTAINTY REGARDING THE NOTICE OF ALLOWANCE WAS CLARIFIED, IN WRITING, BY THE PATENT OFFICE EXAMINER

Upon review of the Notice of Allowability PTOL-37, Applicant's representative realized that the indication for corrected drawings must be an error. Following the language of the Notice of Allowance, Applicant's representative contacted the PTO Examiner. The PTO Examiner entirely agreed that the corrected drawing indication was erroneous. The PTO Examiner faxed a corrected replacement page of the Notice of Allowability, identical in every respect to the first Notice of Allowability page, but removing the typographical error.

The petition dismissal characterizes the PTO Examiner's facsimile as unofficial, including because it was not signed and did not contain a response date. But, the PTO Examiner had no reason to separately sign the replacement PTOL-37 page, especially considering that the first PTOL-37 page itself was never signed. Nor was there any reason for the facsimile to have a response date; the Notice of Allowance mailed on November 19, 2006 already contained the response date and it remained unchanged. Further, the petition dismissal relies on the lack of an interview summary. Yet, the MPEP says otherwise:

Discussions regarding only procedural matters . . . or *pointing out typographical errors in Office actions or the like, are excluded from the interview recordation procedures below.*

MPEP § 713.04 (emphasis added).

In this case, the Applicant and PTO Examiner addressed a typographical error in the Notice of Allowability. The MPEP excludes the interview summary procedures in this circumstance.

Moreover, the facsimile is official. The faxcover contains the U.S. Patent Office logo. The faxcover identifies the application number, the Examiner name and contact information,

and the date and time of transmission. The faxcover comes from the Patent Office Tech Center, the same place for formal facsimile transmissions as stated in the Notice of Allowance. The petitions dismissal points to no PTO regulation or MPEP section demonstrating that such a facsimile transmission is not official. In fact, the Patent Office provides other communications by facsimile in much the same way. For example, the Assignment Branch faxes Notices of Recordation of Assignments using the same kind of faxcover, which are not signed, have no response date, have no interview summary to go with them, etc. As an example, see Exhibit No. 5. Any reasonable understanding is that such facsimiles are official. Analogously, in the present situation, the PTO Examiner faxed a replacement Notice of Allowability to correct a typographical error in an application when the record was quite clear that no further corrections to formal drawings were due. Any reasonable understanding is that such a facsimile is official.

The petitions dismissal likens the present case to an oral communication from the PTO Examiner, stating that a “delay caused by an applicant’s lack of knowledge or improper application of the patent statute, rules of practice or the MPEP” is not unavoidable due to reliance of oral advice or the USPTO’s failure to advise applicants of deficiencies in time for applicant to correct them. Applicant respectfully believes that such a characterization has no merit. The PTO Examiner sent a written communication correcting the typographical error in the Notice of Allowance. It was not oral advice. It was a written confirmation that no further formal drawings were due. Moreover, the petitions dismissal cites no statute, rule of practice or section in the MPEP that states that an erroneous requirement for corrected drawings is sufficient for a holding of abandonment. The petitions dismissal does not point to a single statute, rule of practice or MPEP section that requires applicants to request a corrected Notice of Allowance in this circumstance (which was done anyway) and otherwise the case becomes abandoned. In this case, the Applicant went beyond the requirements of the statutes, regulations and MPEP in contacting the PTO Examiner and obtaining written confirmation of the fact that no further formal drawings were due.¹

¹ To the extent that the PTO Examiner then committed a further error by failing to submit the replacement page into the Patent Office database (which the Applicant best understands is what the petitions dismissal refers to as the official written record), the burden of that error cannot be placed on the Applicant.

Finally, the statutory requirements in terms of specification, drawings, fees, and patentability were all met. Applicant respectfully believes that the Patent Office does not have the authority to abandon the case based on an erroneous indication that corrected drawings were due.

For all the foregoing reasons, Applicant respectfully requests that the holding of abandonment be withdrawn in this case. If the Patent Office continues to take the position that the petition to withdraw abandonment should not be granted, the appropriate petitions examiner is respectfully requested to contact the undersigned.

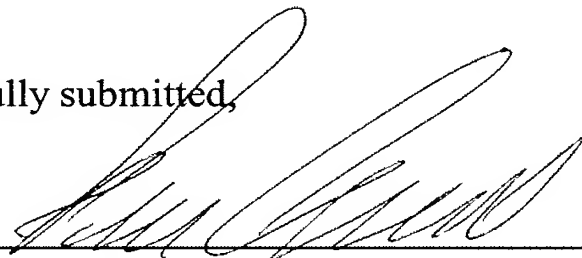
IV. PETITION TO REVIVE APPLICATION UNDER 37 C.F.R. § 1.137(b)

If the request for reconsideration above is not granted, then and only then, Applicant respectfully requests that the case be revived because it was unintentionally abandoned. (In this regard, it is noted that the issue fee was timely paid, and the original petition to withdraw abandonment was filed less than 6 months after the Notice of Allowance.) Exhibit No. 6 contains the necessary signed form to revive the application under 37 C.F.R. 1.137(b). The Patent Office is authorized to charge Deposit Account No. 19-0741.

Date April 18, 2008

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 945-6162
Facsimile: (202) 672-5399

Respectfully submitted,

By 

Pavan K. Agarwal
Attorney for Applicant
Registration No. 40,888

Exhibit 1

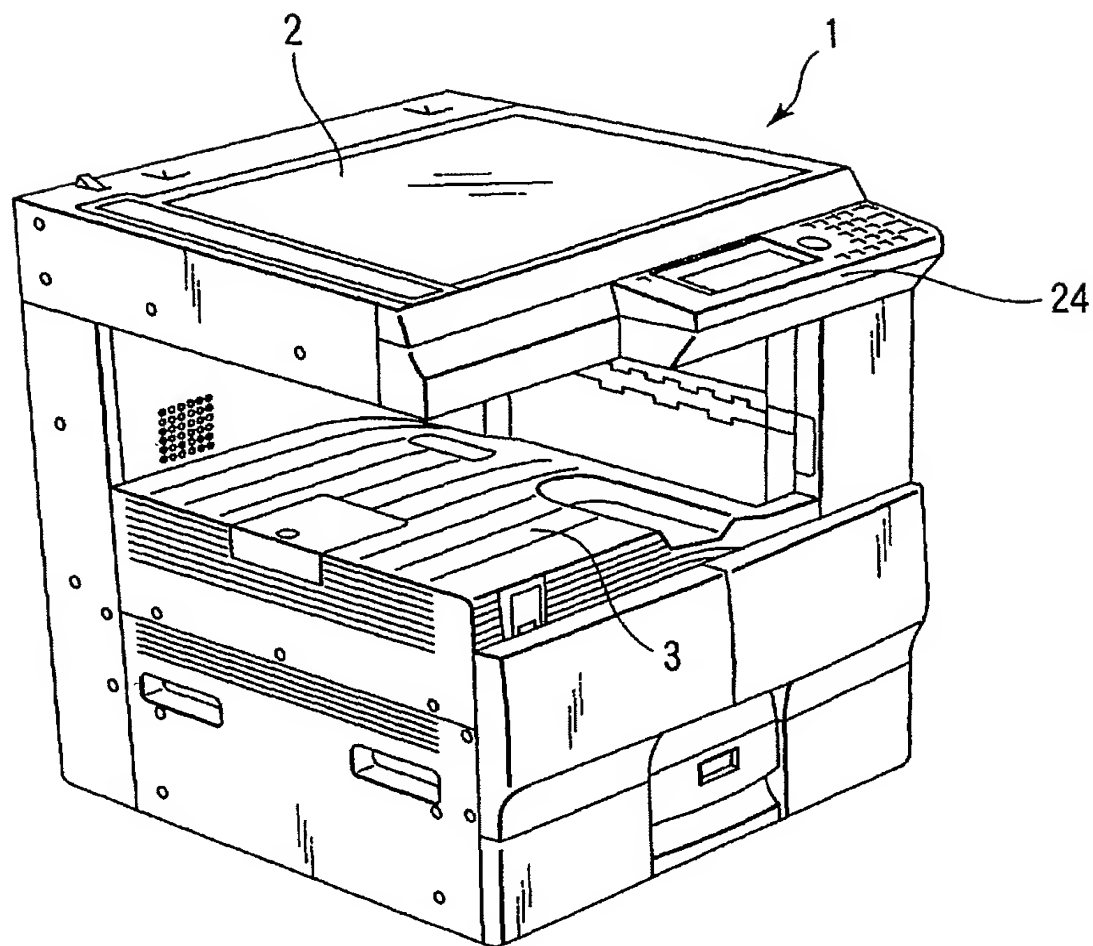


FIG. 1

Mail address	Terminal type
○○○○○○@○○○.co.jp	IFAX
×××××@×××.co.jp	Non-IFAX
△△△△△@△△△.co.jp	IFAX
⋮	⋮

FIG. 3

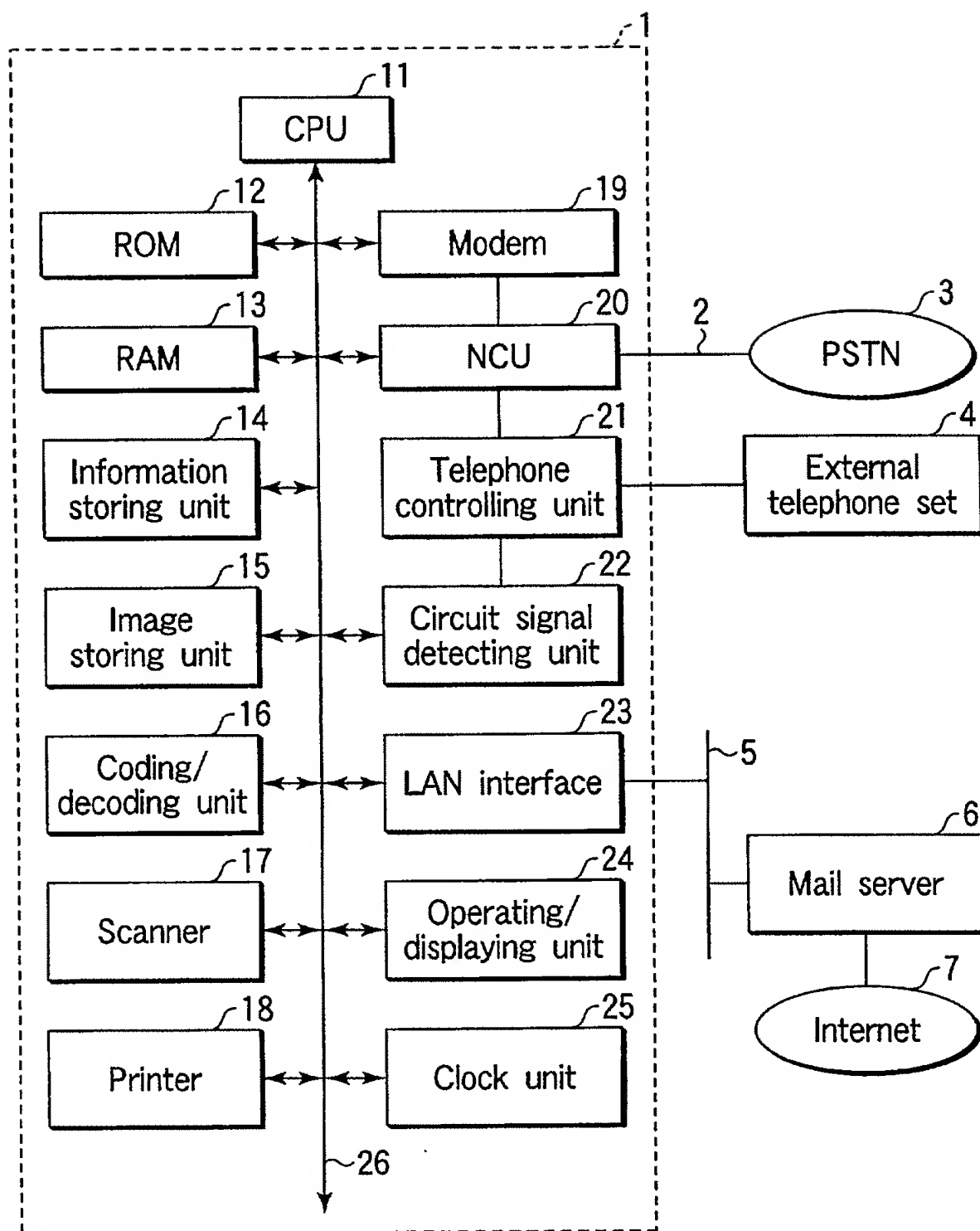


FIG. 2

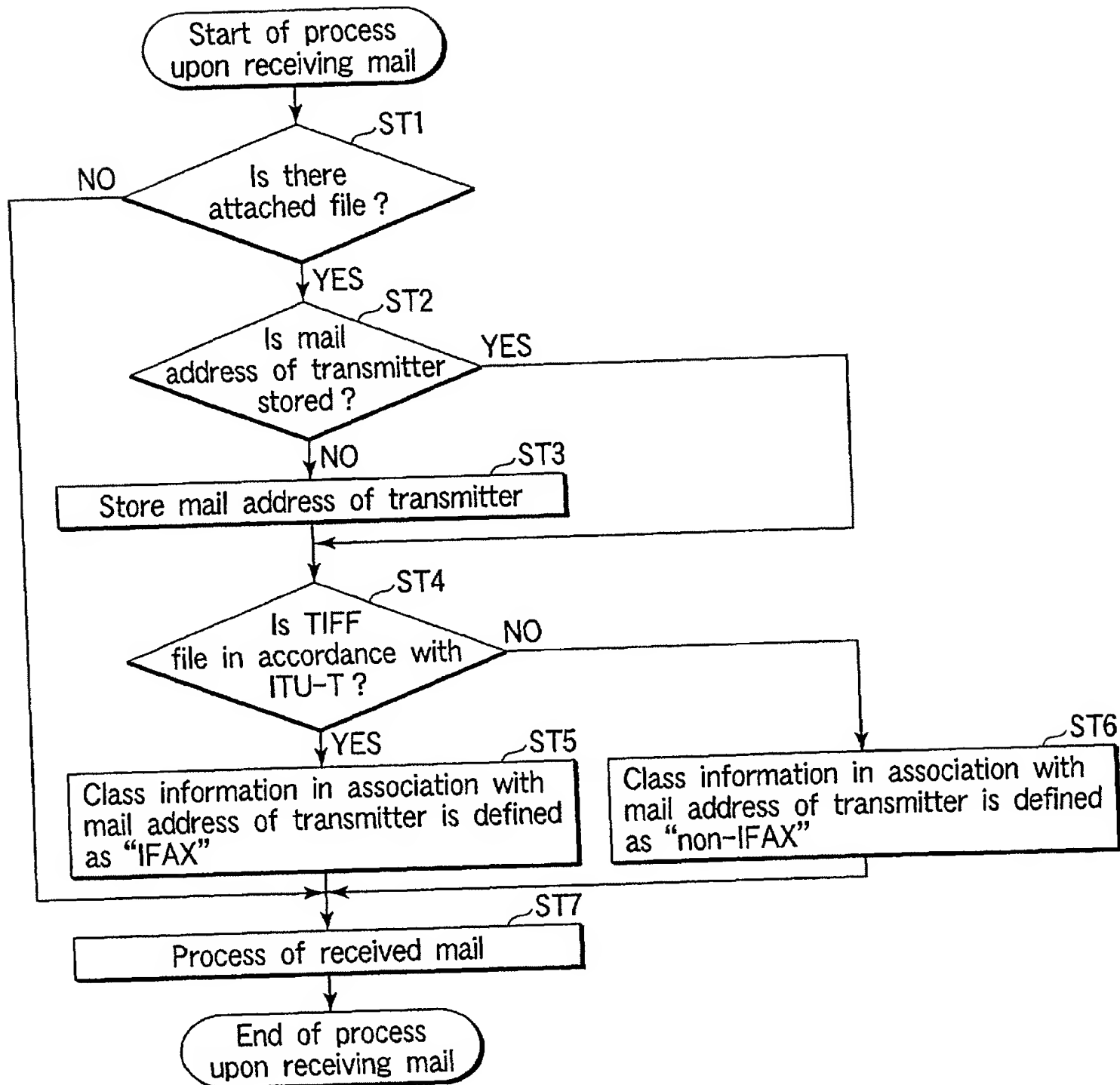


FIG. 4

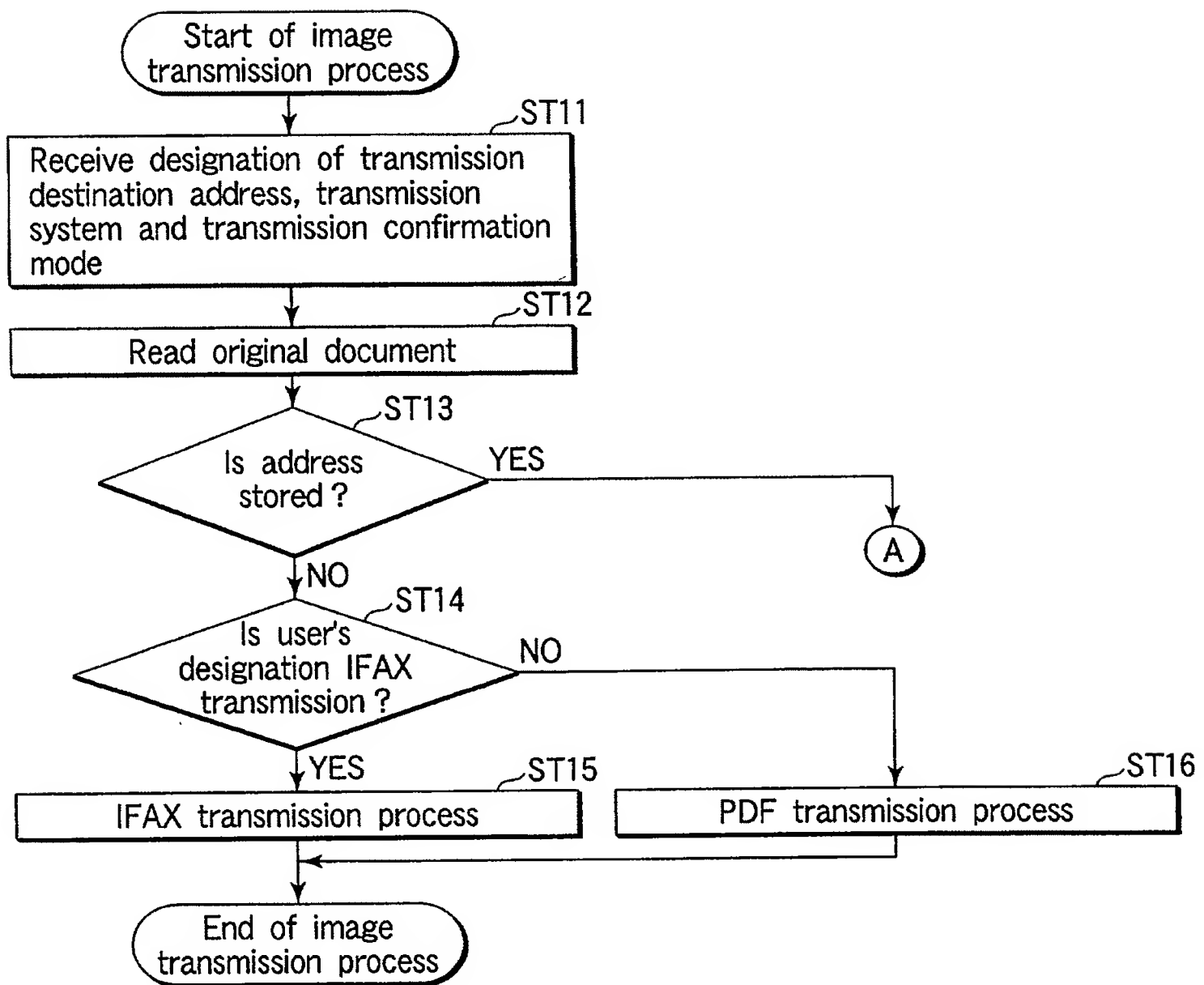


FIG. 5

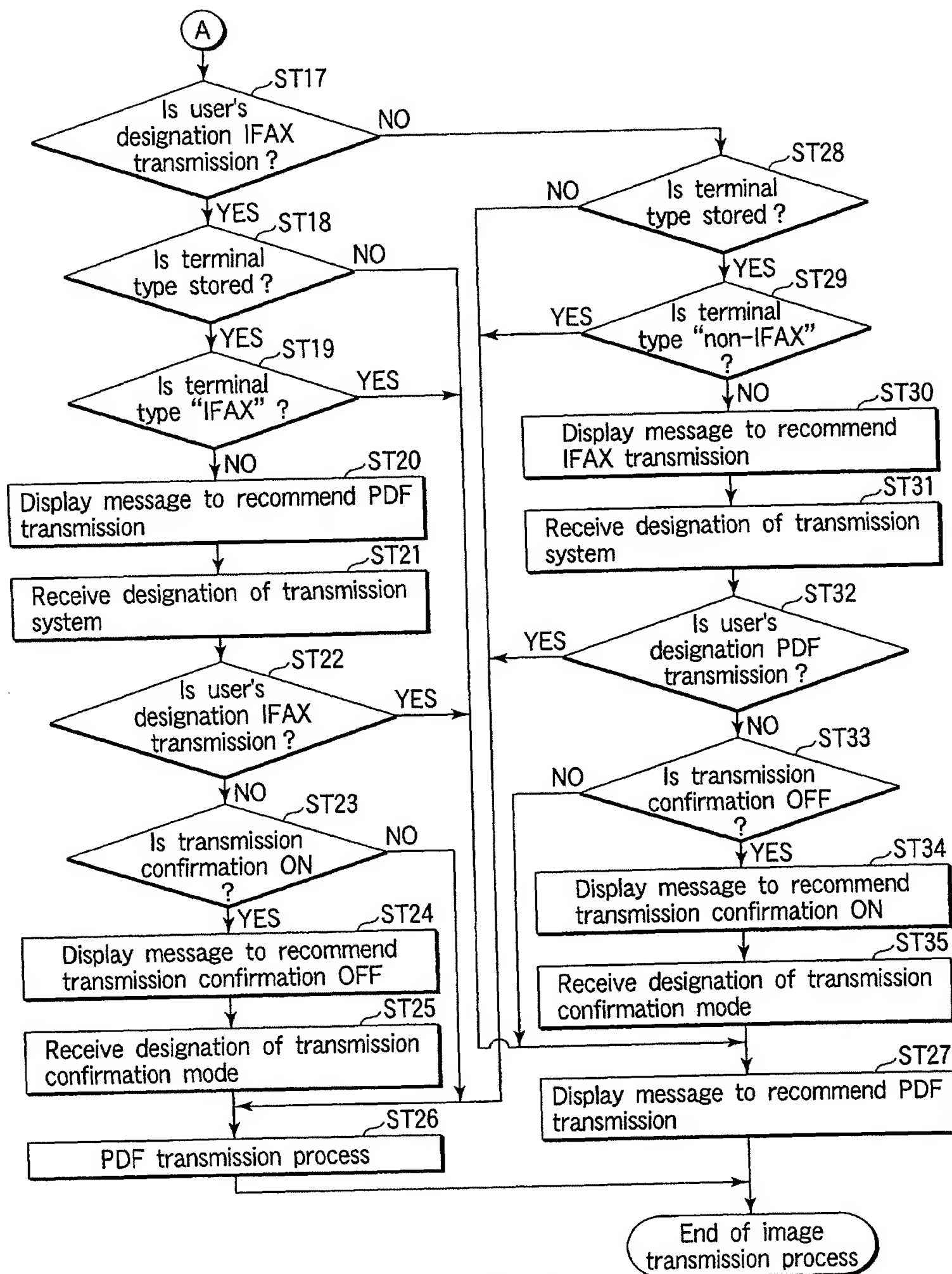


FIG. 6

Exhibit 2



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

22428 7590 11/17/2006

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

BRINICH, STEPHEN M

ART UNIT

PAPER NUMBER

2625

DATE MAILED: 11/17/2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,891	02/20/2002	Hiroteru Tsuchiya	016907-1374	3110
TITLE OF INVENTION: IMAGE TRANSMISSION DEVICE AND INFORMING METHOD THEREOF				

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$0	\$1700	02/20/2007

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

I. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

II. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

22428 7590 11/17/2006

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,891	02/20/2002	Hiroteru Tsuchiya	016907-1374	3110

TITLE OF INVENTION: IMAGE TRANSMISSION DEVICE AND INFORMING METHOD THEREOF

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$0	\$1700	02/20/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
BRINICH, STEPHEN M	2625	358-001150

Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
 (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2):

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,891	02/20/2002	Hiroteru Tsuchiya	016907-1374	3110
22428	7590	11/17/2006	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			BRINICH, STEPHEN M	
			ART UNIT	PAPER NUMBER
			2625	
DATE MAILED: 11/17/2006				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 969 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 969 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/077,891

Examiner

Stephen M. Brinich

Applicant(s)

TSUCHIYA, HIROTERU

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amdt filed 8/25/06.
2. ☒ The allowed claim(s) is/are 1-19.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Art Unit: 2625

DETAILED ACTION

Allowable Subject Matter

1. Applicant's arguments in the Response filed 8/25/06 (page 10, lines 11-14) with respect to claims 1-19 have been fully considered and are persuasive. The rejection of claims 1-19 under 35 USC §112 has been withdrawn.

Conclusion

2. Any inquiry concerning the contents of this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430.

Any inquiry relating to the status of this application or proceeding or any inquiry of a general nature concerning application processing should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 571-272-1000.

The examiner can normally be reached on weekdays 8:00-5:30, alternate Fridays off.

The examiner's unit designation has been changed from "Art Unit 2624" to "Technology Division 2625" (as of March 20, 2006).

If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

Application/Control Number: 10/077,891

Page 3

Art Unit: 2625

Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 571-273-8300 (as of July 15, 2005).

Hand-carried correspondence may be delivered to the Customer Service Window, located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

Stephen M Brinich
Examiner
Technology Division 2625

smb *SMB*
November 2, 2006



THOMAS D. LEE
PRIMARY EXAMINER

Exhibit 3

TO:10077891 COMPANY:

**Patent Technology Centers****Facsimile Transmission**

To:	Name:	10077891
	Company:	
	Fax Number:	2026725399
	Voice Phone:	
From:	Name:	Stephen Brinich
	Official Fax Number:	(571) 273-8300
	Official After Final Fax Number:	(571) 273-8300
	Voice Phone:	5712727430

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

Date and time of transmission: Wednesday, December 06, 2006 1:42:28 PM
Number of pages including this cover sheet: 02

TO:10077891 COMPANY:

Notice of Allowability	Application No.	Applicant(s)	
	10/077,891	TSUCHIYA, HIROTERU	
	Examiner	Art Unit	
	Stephen M. Brinich	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amdt filed 8/25/06.
2. ☒ The allowed claim(s) is/are 1-19.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

Exhibit 4

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
 or **Fax** **(571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

22428 7590 11/17/2006

FOLEY AND LARDNER LLP
 SUITE 500
 3000 K STREET NW
 WASHINGTON, DC 20007



Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,891	02/20/2002	Hiroteru Tsuchiya	016907-1374	3110

TITLE OF INVENTION: IMAGE TRANSMISSION DEVICE AND INFORMING METHOD THEREOF

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$0	\$1700	02/20/2007
EXAMINER	ART UNIT	CLASS-SUBCLASS	02/16/2007 HANDED 00000046 1007/891			
BRINICH, STEPHEN M	2625	358-001150	01 FC:1501 02 FC:1504 1400.00 OP			

Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. FOLEY & LARDNER LLP

2. _____

3. _____

ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

KABUSHIKI KAISHA TOSHIBA

Tokyo, JAPAN

TOSHIBA TEC KABUSHIKI KAISHA

Tokyo, JAPAN

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

a. The following fee(s) are submitted:

- ☒ Issue Fee
- ☒ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☒ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 19-0741 (enclose an extra copy of this form).

Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Date February 15, 2007

Typed or printed name

Pavan K. Agarwal

Registration No. 40,888

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Exhibit 5

PAVAN K. AGARWAL COMPANY:3000 K STREET NW



UNITED STATES PATENT AND TRADEMARK OFFICE

Facsimile Transmission

To:	Name:	PAVAN K. AGARWAL
	Company:	3000 K STREET NW
	Fax Number:	12026725399
	Voice Phone:	
From:	Name:	ASSIGNMENT SERVICES BRANCH
	Voice Phone:	571-272-3350

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

Pg#	Description
1	Cover Page
2	660.TXT
4	Document 1, Batch 1216435

USPTO ASSIGNMENT SYSTEM PROCESSING

Date and time of transmission: Wednesday, March 26, 2008 9:03:14 AM
Number of pages including this cover sheet: 04

Exhibit 6

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

016907-1374

First named inventor: Hiroteru TSUCHIYA

Application No.: 10/077,891

Art Unit: 2625

Filed: 2/20/2002

Examiner: Stephen M. Brinich

Title: IMAGE TRANSMISSION DEVICE AND INFORMING METHOD THEREOF

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☒ Other than small entity - fee \$ 1,540.00 (37 CFR 1.17(m))**2. Reply and/or fee**

- A. The reply and/or fee to the above-noted Office action in the form of "Replacement Drawings" (identify type of reply):
(see transmittal)

☐ has been filed previously on _____.

☒ is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ 1,700.00.

☒ has been paid previously on February 15, 2007.

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



 Signature

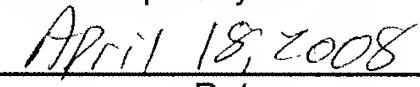
Pavan K. Agarwal

Typed or printed name

Foley & Lardner LLP

Address

Customer No. 22428



 Date

40,888

Registration Number, if applicable

202-672-5300

Telephone Number

Enclosures: ☒ Fee Payment (Deposit Account No. 19-0741)☐ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unintentional delay
Submission of Replacement Drawings with 5 sheets☒ Other: Replacement Drawings**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300._____
Date_____
Signature_____
Typed or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hiroteru TSUCHIYA
Title: IMAGE TRANSMISSION DEVICE AND INFORMING
METHOD THEREOF
Appl. No.: 10/077,891
Filing Date: 2/20/2002
Examiner: Stephen M. Brinich
Art Unit: 2625
Confirmation No. 3110

TRANSMITTAL OF REPLACEMENT FORMAL DRAWINGS

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

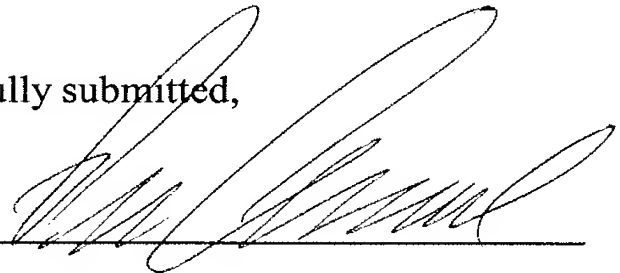
The attached Replacement Formal Drawings are identical to the drawings filed with the application on February 20, 2002. No changes have been requested during prosecution of the application and no changes have been made.

Pursuant to the Notice of Allowability dated November 17, 2006, replacement drawings are required. Applicants have formally corresponded with the Examiner, as well as the Petitions Branch, regarding that Box No. 5 on the November 17, 2006 Notice of Allowability was incorrectly marked. No Notice of Draftsperson's Patent Drawing Review (PTO-948) was included with the Notice of Allowance. Applicant requests that the Notice of Allowability be corrected to indicate that no formal drawings are due.

Nevertheless, these drawings are herewith submitted as Replacement (but not "Corrected") Drawings.

Respectfully submitted,

Date April 18, 2008

By 

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 945-6162
Facsimile: (202) 672-5399

Pavan K. Agarwal
Attorney for Applicant
Registration No. 40,888

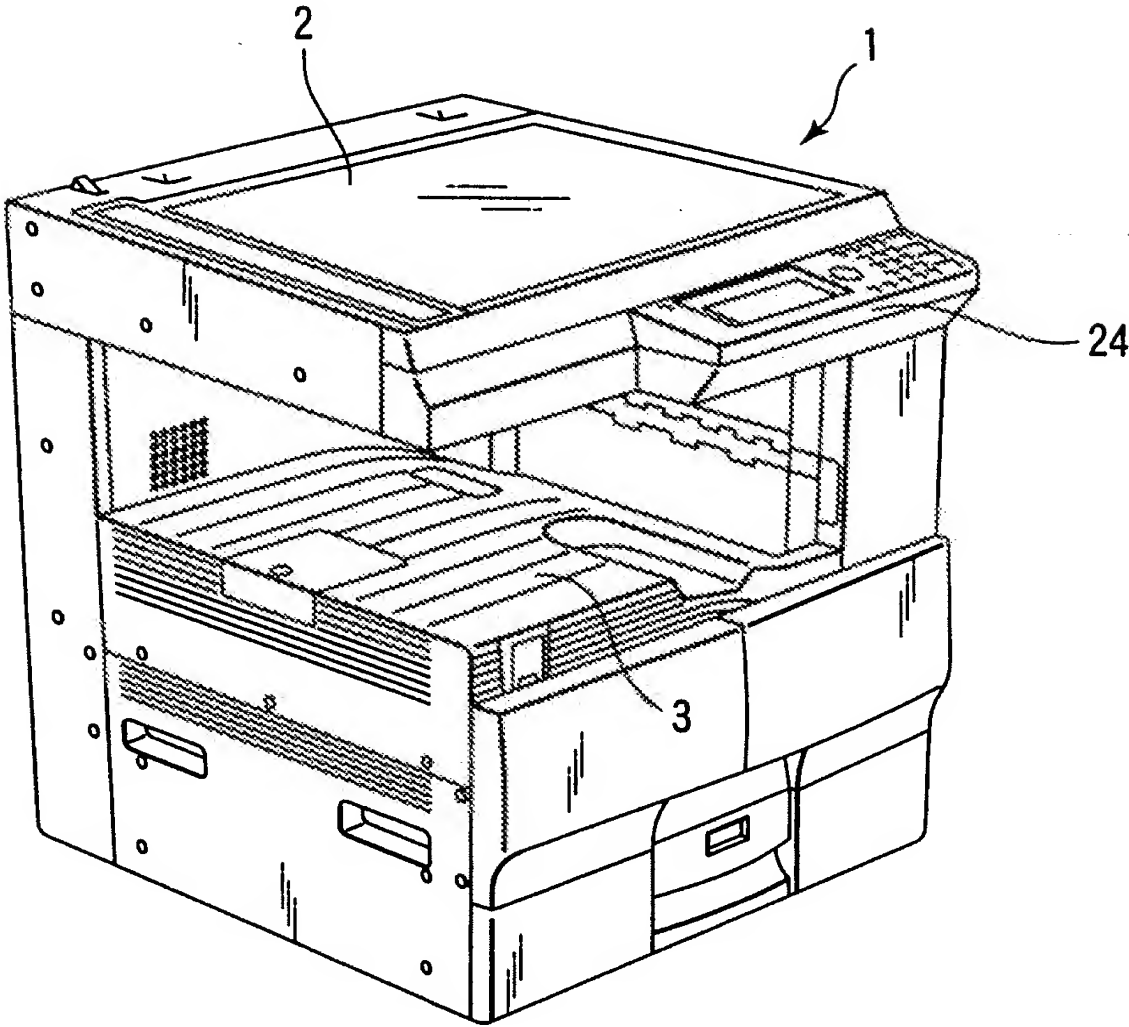
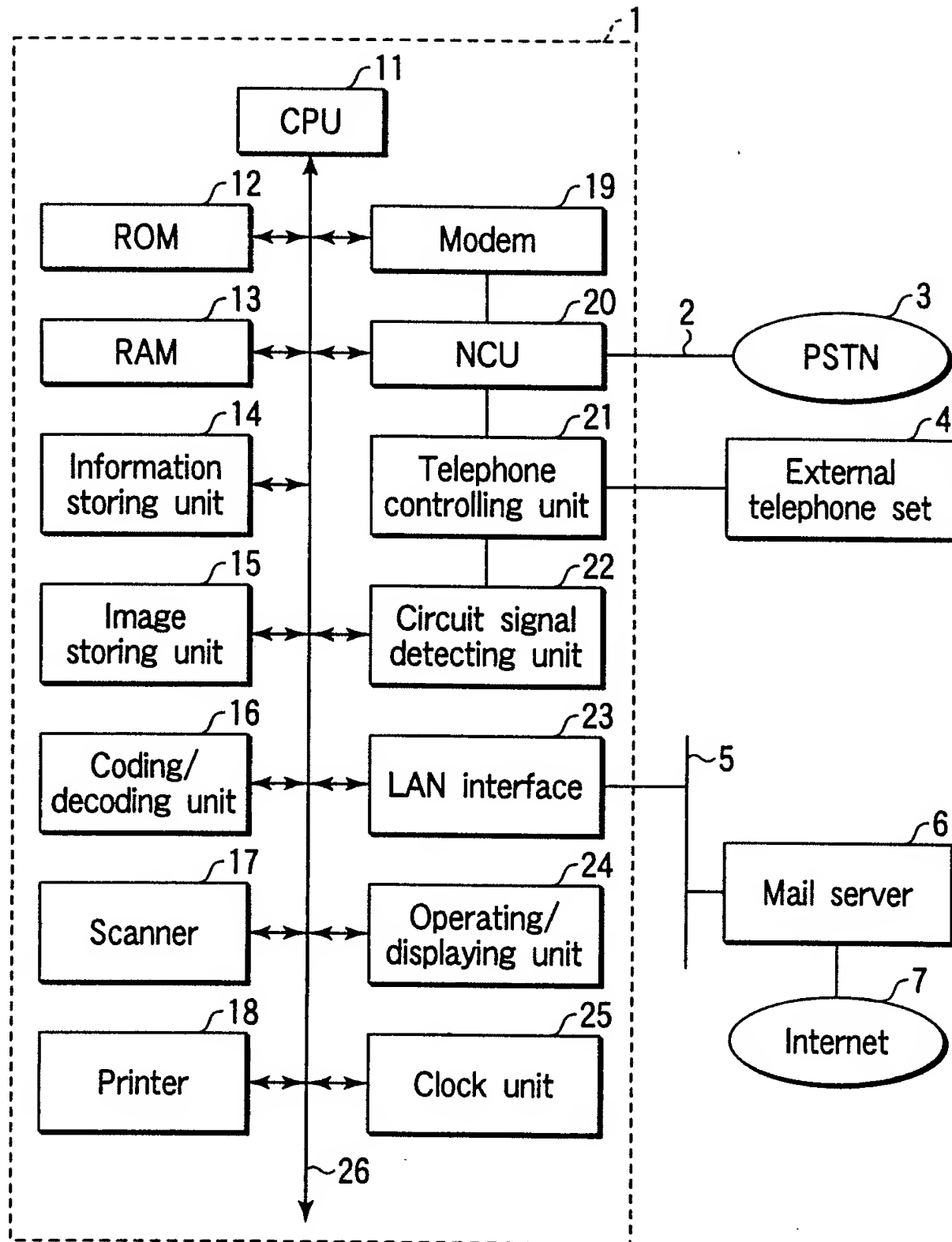


FIG. 1

Mail address	Terminal type
〇〇〇〇〇〇@〇〇〇.co.jp	IFAX
××××××@×××.co.jp	Non-IFAX
△△△△△@△△△.co.jp	IFAX
⋮	⋮

FIG. 3



F I G 2

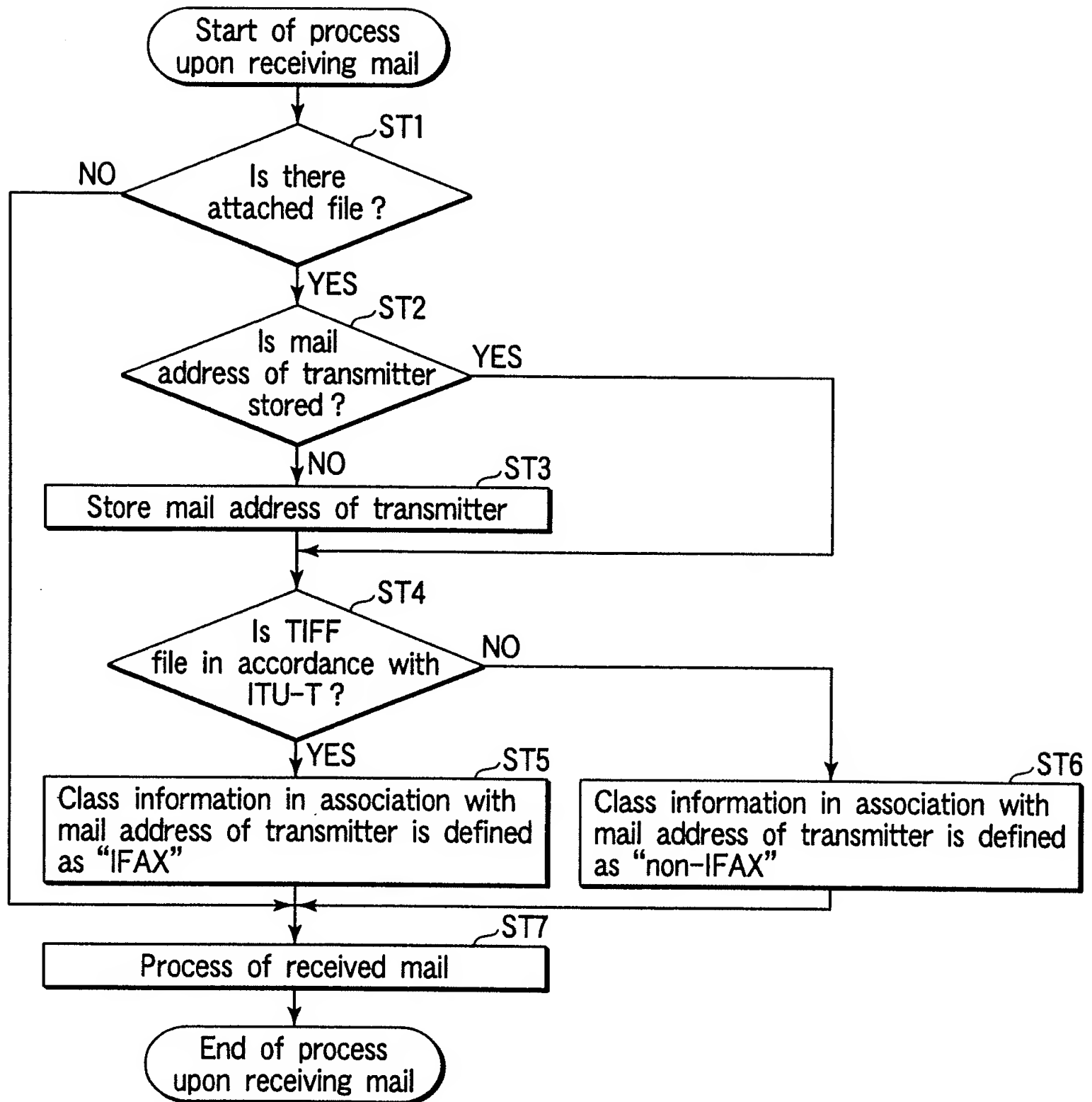


FIG. 4

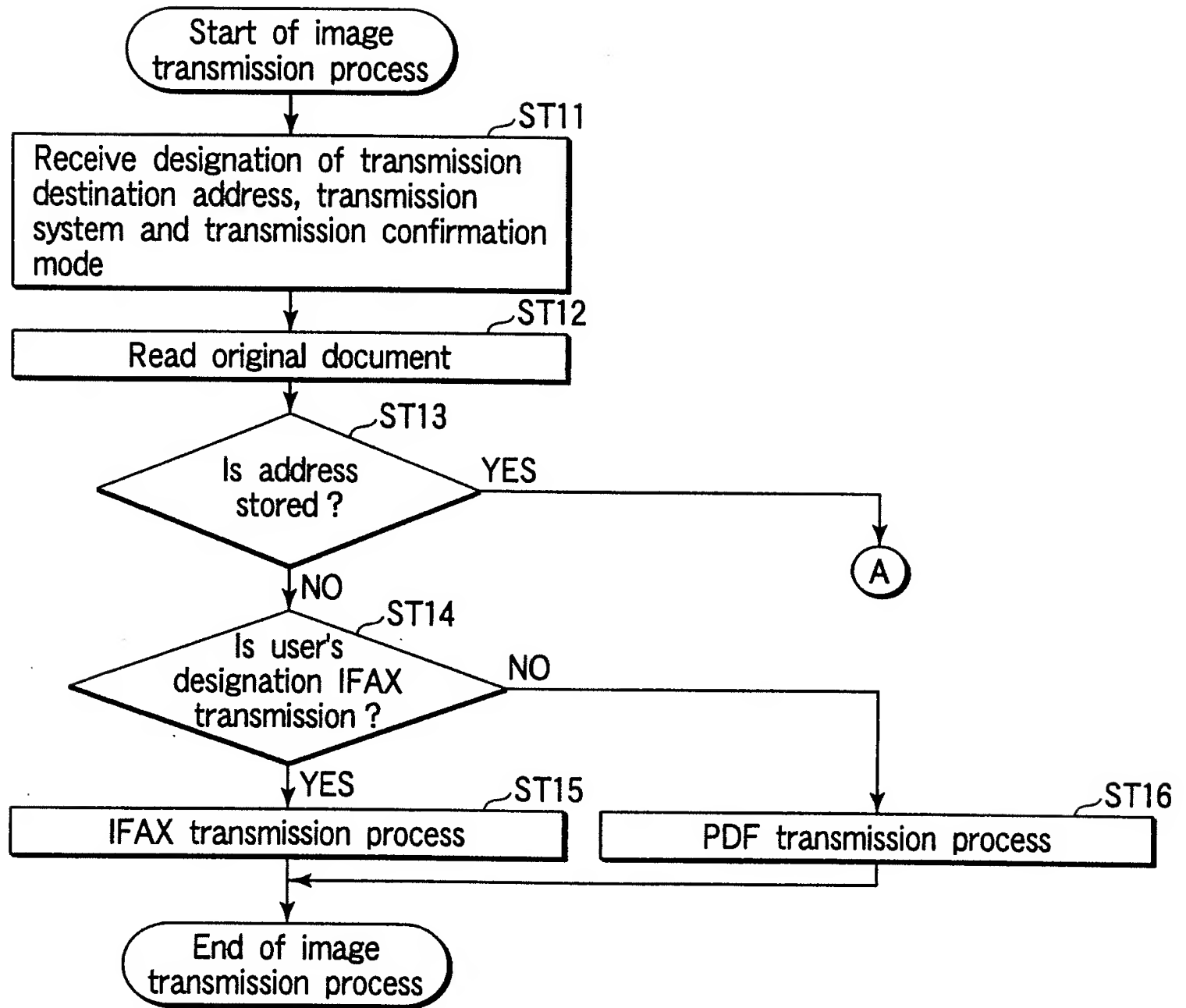


FIG. 5

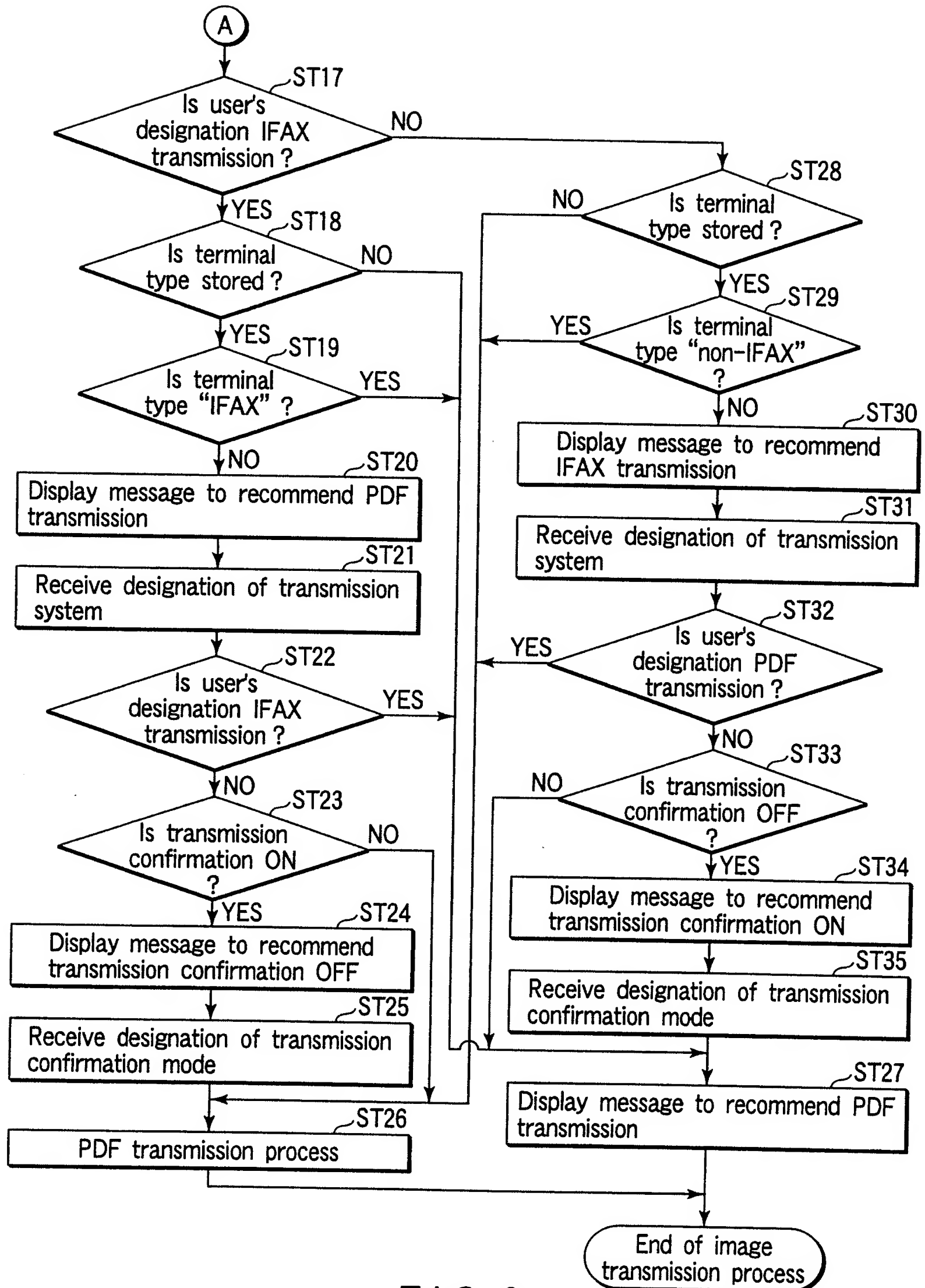


FIG. 6